



25 OCT 2006

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In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	SUPPLEMENTAL
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	
For: WATER DESALINATION INSTALLATION	:	

This decision is supplemental to the decision mailed 27 September 2006. That decision overlooked the declaration of inventors filed 21 July 2006. Any inconvenience is regretted.

### **BACKGROUND**

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

On 27 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b) and indicating that the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

### **DISCUSSION**

The declaration of inventors filed 21 July 2006 is not in compliance with 37 CFR 1.497(a)-(b) because it identifies the incorrect inventorship.

37 CFR 1.41(a)(4) states:

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration lists three inventors while the international application lists only two inventors. (The additional inventor listed on the declaration is Eli Oklejas. This individual is indicated in the international application as an applicant for all designated states except the US.) A Form PCT/IB/306 does not appear in the file for the additional inventor. Nor is there any other indication that a PCT Rule 92<sup>bis</sup> change has been made in the above-identified international application. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 21 July 2006 is not sufficient.


### **CONCLUSION**

The portion of the decision mailed 27 September 2006 indicating that the the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) is hereby VACATED.

Applicants are required to file a declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

The declaration must name the inventive entity named in the international application, or a proper change of inventorship under 37 CFR 1.497(d) must be filed, or a Form PCT/IB/306 indicating a change effected under PCT Rule 92<sup>bis</sup> corresponding to the declaration filed 27 July 2006 must be filed.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
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Legal Examiner

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